

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
UNITED STATES COURTHOUSE  
500 PEARL STREET  
NEW YORK, NY 10007

NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

(212) 805-0194

July 1, 2020

Mr. Samuel Feldman  
Orloff, Lowenbach, Stifelman & Siegel, P.A.  
44 Whippany Road, Suite 100  
Morristown, NJ 07960

**Re: Verano Development, Inc. v. Bolivarian Republic of Venezuela**  
**20 Civ. 3266 (NRB)**

Dear Counsel:

A review of the docket sheet in the above-captioned matter indicates that your complaint was filed on April 25, 2020, and that, as of today's date, the complaint has not been served on the defendant. Rule 4(m) of the Federal Rules of Civil Procedure, as amended as of January 1, 2018, provides:

If a defendant is not served within 90 days after the complaint is filed, the court — on motion or on its own after notice to the plaintiff — must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

While Rule 4(m) creates an exception to the 90-day service rule for service upon a foreign state, see Fed. R. Civ. P. 4(m) (noting inapplicability of subdivision to service pursuant to Rule 4(j)(1)), that exception does not apply in this circuit if the plaintiff does not attempt to effectuate service during the 90-day period. See *USHA (India), Ltd. v. Honeywell Int'l, Inc.*, 421 F.3d 129, 133-34 (2d Cir. 2005). Thus, unless you achieve service or can demonstrate efforts to do so, this matter will be dismissed without prejudice on July 30, 2020.

Very truly yours,

A handwritten signature in blue ink, reading "Naomi Reice Buchwald".

Naomi Reice Buchwald  
United States District Judge